

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:

Modernizing the E-rate Program
for Schools and Libraries

Schools and Libraries Universal
Support Mechanism

WC Docket No. 13-184

November 8, 2013

Reply comments of Dan Riordan, President of On-Tech Consulting, Inc.

§	Comment
27	I agree with Sunesys that in setting goals for WAN bandwidth, instead of using the SETDA benchmark for Internet access, the WLAN goal should be the same as the WAN goal: 10 Gbps for each 1,000 students, or 10 Mbps for each student by 2017-2018.
29	The availability and affordability of broadband are not good measures of the success of the E-Rate program. Actual broadband speeds at schools are a much better measure of success, and should be the goal, not potential broadband speeds.
30	I agree with the West Virginia Department of Education that this data should be part of the Form 471, or at least part of a standardized Item 21 Attachment. If the FCC would like to collect information about the types of technologies, they should direct USAC to hire a firm with broadband expertise to develop criteria for the type of technology used, and reach out to service providers to determine the technology used. Currently, it is unclear whether USAC is asking for the type of port the client receives (Ethernet, for example), the protocol used to transport that data across the carrier network (MPLS, for example), or the physical layer used (fiber, for example). Many applicants do not have this information.
31	The Form 471 should include information on the number of connections and the bandwidth of each connection. All information currently collected on the Item 21 Attachment should be part of the Form 471. It seems odd to require applicants to supply information, yet keep it outside the Federal data collection rules by not making it part of a form. Publishing the information currently hidden in Item 21 Attachments would have many advantages, described in my response to paragraph 196.

32	An additional burden on applicants seems unnecessary. Certainly bandwidth measurements could be made part of any audits conducted, and perhaps USAC could be instructed to conduct bandwidth samples if there is reason to believe that actual bandwidth is below contracted bandwidth.
34	I agree with the West Virginia Department of Education that measuring broadband should not be a pre-requisite for E-Rate funding. Service providers already collect this information, so if this information is required, it should be collected from service providers.
35	If there is reason to doubt the information received from service providers, USAC could send investigators to install a device to provide performance information.
36 to 38	The goal should be that school children and library patrons have the broadband necessary to support learning. Availability and affordability are not access. If high-speed broadband is cheaply available, the public only has access to it if schools and libraries actually purchase the broadband. The Commission should measure access, not availability or affordability.
39	The Commission should require service providers to provide their “lowest corresponding price” (LCP) as required by 47 CFR 54.511(b). Publishing information currently hidden in the Item 21 Attachment will help ensure schools receive LCP, as would a requirement that service providers supply LCP if an applicant requests it.
41 to 44	Enforcing the existing LCP rules would eliminate the need for this goal by ensuring that applicants receive the best price available in the marketplace.
45	Use of E-Rate consultants is not a good indicator of program complexity, any more than the widespread outsourcing of transportation services is an indicator of the complexity of driving a bus. Like responsible organizations public and private, schools and libraries outsource non-core activities where economically feasible. Use of an E-Rate consultant will continue to be more cost-effective for many applicants, regardless of complexity.
48	<p>Additional measures:</p> <ol style="list-style-type: none"> 1. USAC should decide 90% of Priority 1 applications by June 1. A June 1 approval date allows service providers to set up discounting in time for the July bill. 90% of Priority Two applications should be approved by November 1. 2. The invoice payment metric should start from the time an invoice is first presented. If USAC denies or “passes zero” on an invoice, and a later invoice is approved, USAC should report the time from the submission of the first invoice to the approval of the final invoice, not the speed with which it denied invoices until the applicant got to approval. 3. The invoice metric should be 5 days for invoices that are payable as submitted, or 20 days for invoices that require further action. 4. The Commission should maintain a public list of appeals it has under consideration, showing the applicant, FRN and date submitted, and a link to the appeal, so that the public can track pending appeals 5. The Commission should adopt the metrics currently collected for USAC appeals and publish the results for both USAC and FCC appeals. The goal should be approval of 100% of appeals within 90 days. 6. The time required to complete the application process should be reduced by at least 10% per year. Newly hired PIA reviewers could, as part of their training, be asked to

	<p>complete the process using the previous year's rules, forms and procedures, and the current years' process.</p> <p>7. Each year in October, USAC should report on the changes it has made to streamline the application process, quantifying the improvement.</p> <p>8. USAC should be required annually to sample a few hundred FRNs to see how often the Form 470 competitive bidding process results in pricing lower than the existing lowest corresponding price (which applicants should receive without the need for competitive bidding), in order to evaluate the usefulness of the Form 470.</p> <p>Rather than requiring improvement on targets each year, the Commission should set high targets. The targets must be set so high that they can only be achieved by substantial changes in rules, procedures and forms to simplify the application and review process.</p>
49	<p>Comparing commitments to disbursements does not measure administrative streamlining as much as applicants' ability to guess their needs for the coming year, and willingness to risk hitting the funding commitment cap.</p> <p>USAC should be expected to reduce its budget by 10% per year for current operations. Such a reduction would require USAC to streamline application review.</p> <p>At the same time, the Commission should be less restrictive in allowing investments which would streamline administration, like the improvement of the online application and disbursement process. Such improvements should be exempted from the above requirement to cut costs.</p>
51	<p>E-Rate applicants should not face the additional burden of trying to calculate the cost of applying. Instead, the Commission can reduce the costs by implementing the measure mentioned in item 6 of my comment on paragraph 48.</p>
52	<p>All data collected to measure success in achieving the program goals should be public. Citizens should be able to see for themselves how successful the program is.</p>
53	<p>I agree with the West Virginia Department of Education that the information requested on the Item 21 Attachment should be incorporated into the Form 471. The information should be standardized so that the form includes all the information PIA needs to make funding decisions. The online form has been improved, but still does not require that applicants put in all the information needed, which causes extra work for PIA and applicants. The Form 471 would become much more complex, but only because the complexity of the application process would be more transparent. In fact, collecting all the necessary information up front would simplify the process. All of the data collected from applicants should be on OMB-approved forms.</p>
54	<p>In creating permanent identifiers, the Commission should avoid the current "entity" confusion by creating three separate entity types: organizations, locations and consortia. "Organizations" would be entities that have EINs, now called "Billed Entities." "Locations" would be places that will be receiving services, now called "entities." For schools, the school board would be the organization, while school buildings (or campuses) and NIFs would be locations. For libraries, the organization might be a library board or the town government, depending on who plays the bills, and the branches would be locations. "Consortia" would be special type of organization, made up of a combination of organizations.</p>

	<p>The identifiers for organizations should be in a different format than for locations. For example, the two types of IDs might have different numbers of characters, or the organization ID might start with two letters to identify the state, while location IDs would be only numbers. Or the Commission could follow the NCES model, and make the organization ID a part of the location ID.</p> <p>Each location would be tied to a single organization.</p> <p>Locations could not join consortia.</p> <p>Consortia and organizations would go in Block 1 of the forms, locations would not. If an organization is in Block 1 of a Form 471, then Block 4 would contain locations; if a consortium were in Block 1, then Block 4 would contain organizations.</p> <p>This change would seem to add another layer of complexity, but is in fact only clarifying complexity that exists. The current system creates confusion by obscuring complexity. As an example, when the FCC told USAC that all “entities” (meaning organizations) should get FCC Registration Numbers, USAC understood the directive to mean that all “entities” (locations) should get FCCRN. Before the confusion was cleared up, thousands of duplicate FCCRNs were created.</p>
65	<p>The FCC should remain technology-neutral in funding digital transmission. While fiber is often the most cost-effective physical layer, the FCC should not state a preference for any particular technology. The choice of technology should be left to applicants.</p>
71	<p>I agree with the State E-Rate Coordinators Alliance that in order to maintain technology neutrality, modulating electronics for dark fiber circuits should be treated the same as any equipment installed by the service provider at an applicant location.</p>
72	<p>To maintain technology neutrality, the construction and installation costs for lit and dark fiber should be treated the same.</p>
73	<p>Requiring that costs be amortized has the effect of forcing service providers to finance the initial construction costs, and pass the cost of financing on to the applicant, meaning that both the applicant and the USF end up paying more for that service. Applicants should be able to request funding for installation of fiber as a lump sum.</p>
75	<p>The Commission should not create different rules for “lateral build” fiber runs or fiber runs to rural or Tribal lands, because it will add complexity to the program without bringing broadband to more students.</p> <p>Applicants are currently allowed to amortize costs over longer than 3 years, so there is no need to create a new rule specifically allowing it.</p>
76	<p>The Commission should not consider any factors in prioritizing lateral fiber builds. That would involve creating two new levels of complexity, splitting “lateral build” from other fiber installation, then splitting that sub-category into various priorities based on some other factors. Even if “lateral build” could be clearly defined, creating higher priorities for “lateral build” would cause applicants to favor connections to the middle mile over direct connections between schools or branches in cases where such direct connections would be more cost-effective. Favoring fiber runs defined as “lateral build” would add complexity and increase costs.</p>

	The E-Rate fund should not be expanded to include funding for community access until all school and library funding needs are met.
77	The Commission should be technology-neutral, always favoring the most cost-effective solution. There is no compelling public interest in having applicant data travel as light waves through glass than as microwaves through the air.
78	The Commission should not create separate categories for deployment and recurring costs. Such arrangements would encourage applicants to sign agreements with higher upfront costs and lower recurring costs, regardless of whether those agreements are more efficient. Favoring a particular payment structure does not increase efficiency.
80	<p>I agree with the State E-Rate Coordinators Alliance that applicants should be allowed to purchase WANs if it is more cost-effective. The Commission should not attempt to differentiate between leased and purchased WANs. Contractually, both are IRUs. Practically, ownership of the telephone poles does not pass to the applicant (and it is a very rare case when the WAN provider owns all the poles), so the WAN only continues as long as pole attachment fees continue to be paid. Under current rules, USAC considers IRUs with high upfront costs to be “purchases,” while IRUs where upfront costs are financed to be “leases.”</p> <p>Applicants should be allowed to choose the most cost-effective means of providing WAN service to their locations.</p>
81	If by “build and own their network facilities,” the Commission means allowing applicants to use their own employees to install telephone poles and attach their own cabling to their poles, that should not be allowed; the E-Rate should not reimburse applicants for any personnel costs. If by “build and own their network facilities,” the Commission means allowing applicants to hire a service provider to install a dedicated fiber connection between applicant locations, that is allowed under current rules and should continue to be allowed.
85	I agree with the West Virginia Department of Education that the Commission should include content filters in the Eligible Services List. The capacity of current firewalls and content filters will be an obstacle for the vast majority of schools and libraries in supporting 1 Gbps Internet connections. Based on what I have seen at my clients’ locations, most smaller applicants do not have a firewall or content filter capable of supporting 100 Mbps. A firewall is certainly a technical requirement in order to maintain an Internet connection. While a content filter is not a technical requirement, it is a legal necessity, and should be funded.
87	Since fiber installations are multi-year contracts, allowing multi-year funding commitments would encourage those applicants who are uncomfortable making multi-year commitments without dependable support.
88	See my comment for paragraph 180 for a discussion of the evidence that consortium purchasing lowers prices.
89	Removing the distinction between IRUs with large upfront costs (currently considered ineligible “purchases”) vs. spreading cost out over several years (currently considered eligible “leases”) will result in more applicants paying larger upfront costs and lower recurring costs.

	If the Commission intends to reduce the size of the E-Rate fund after a few years, that time period should be made clear to applicants; the idea that funding for WANs will be cut in a few years will give applicants powerful incentive to quickly implement WANs with larger upfront costs.
90	Instead of removing items from eligibility, the FCC should adjust the current priority system to reflect new priorities as described under paragraph 148 below.
92	I disagree with the State E-Rate Coordinators Alliance statement that the Commission should determine that paging in particular should be removed from the program. Removing outdated services will have little effect on funding; as technologies become obsolete, applicants cease to use them, and funding requests drop.
97	As shown in the response to paragraph 148, “ride over” services should be moved to a lower priority.
99	<p>I agree with the State E-Rate Coordinators Alliance that “educational purpose” rules should not be tightened. The sole purpose of schools and libraries is education. The Commission should not attempt to determine whether any of the services purchased by a school or library have insufficient “educational purpose” to be funded.</p> <p>Not all services, however, are equally proximate to students and patrons. The Commission should use proximity to students and patrons when setting priority levels. In the priority list given above, voice services are at a low priority because they are rarely used by students than Internet access or content filtering.</p>
101	I agree with the State E-Rate Coordinators Alliance that the Commission should remove funding for basic maintenance of internal connections (BMIC), or at least relegate it to the lowest priority level. In my experience, BMIC funding is the most difficult to use properly, since it is rarely approved by the beginning of the funding year. It is also the most prone to abuse, since there is no inventory. In addition, I have seen cases where districts reduced technical staff because it was cheaper to hire outside support at 90% off. Finally, the definition of BMIC is vague, and each attempt to clarify it results in further confusion.
102	<p>I agree with the West Virginia Department of Education that cellular data plans should not be eligible for support, or should be at a lower level of support. The E-Rate program only funds Internet access from eligible locations, and cannot afford to expand support to ineligible areas. On campus, it will always be more cost-effective to provide Internet access through the local network than through a cellular data plan, so in the only place cellular data is eligible, it is not cost-effective.</p> <p>From news reports (for example http://www.sgytribune.com/general-news/20130301/students-in-montebello-receive-wireless-laptops-as-part-of-7-million-technology-plan) and discussion among tech directors, I see an increasing trend towards providing data to one-to-one devices through cellular data plans, and just ignoring that most of the usage will be off-campus. At \$30/student/month, the fund would need over \$18 billion per year to fund cellular data alone.</p>
103	Rather than eliminating services, the current priority system should be altered so that broadband is funded first, as suggested above in the response to paragraph 148.
104	I agree with the West Virginia Department of Education that internal connections should not be drastically scaled back. Hard limits such as those proposed by SECA remove flexibility from applicants and enforce a “one size fits all” paradigm. Instead of

	<p>developing new requirements, the Commission should simply publish the bright-line standards which already exist for drops/student, cost/student, etc. Those standards are presumably part of the secret application procedures approved by the Commission every year, and are used by USAC to trigger Cost-Effectiveness Reviews, and to deny FRNs. The secret standards which applicants are now expected to meet should be made public. Applicants would then know that if they exceed those standards, they would have the burden of proving that they deserve an exceptional level of funding.</p> <p>This solution would not add to the quantity of rules that exist, and would make the application process more transparent.</p>								
105	Rather than making voice services ineligible, they should be given a lower priority than broadband services.								
109	The Commission should not try to dictate to applicants which technology is most cost-effective. The Commission should remain technology-neutral on the method for delivery of voice services. Voice over IP (VoIP) can be a more cost-effective solution, but is not always. Even in densely populated NJ, VoIP is not universally available.								
110	If the Commission puts voice on a lower priority than other items, it does not have to be removed from the Eligible Services List. If the Commission opts to make voice ineligible, it should not allow voice as part of a bundle. The Commission should return to the principle that bundles that contain ineligible components are fully ineligible unless the cost of ineligible items can be removed from the funding request, or the ineligible items are ancillary. The E-Rate program does not have enough money to fund eligible items, so no ineligible items should be allowed.								
111	If the Commission chooses to drop items from the ESL or change funding priorities, existing contracts should be grandfathered at their current eligibility and priority. In addition, all changes should be made at least one year in advance of the release of the affected ESL, to give applicants time to adjust technology plans to new incentives. If the Commission is able to decide on changes by November 2013, those changes should be effective for Funding Year 2015-2016.								
112	<p>As described under paragraph 148 below, the Commission should create a new priority system to reflect the Commission's new priorities for the E-Rate program.</p> <p>The Commission should not create different discount matrices for different products. That would be a step backwards in achieving the Commission's goal of simplifying the program.</p>								
117 to 122	<p>I do not agree with the State E-Rate Coordinators Alliance suggestions that the Commission should adopt a different discount level for Priority Two funding. Instead, the Commission should change the discount matrix for all priorities to:</p> <table border="1"> <tr> <th>% NSLP</th><th>Discount</th></tr> <tr> <td>< 20</td><td>35 %</td></tr> <tr> <td>20 – 50</td><td>50 %</td></tr> <tr> <td>> 50 (or eligible for CEO)</td><td>65 %</td></tr> </table>	% NSLP	Discount	< 20	35 %	20 – 50	50 %	> 50 (or eligible for CEO)	65 %
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> 50 (or eligible for CEO)	65 %								

	<p>This simplified matrix is in keeping with the Commission's goal of streamlining the program.</p> <p>By lowering the discount level for most applicants, this proposed matrix would:</p> <ul style="list-style-type: none"> • Reflect the reality that the program can no longer afford to fund applicants at the level it did before. • Restrain spending. As the data quoted in paragraph 136 demonstrates, 80% and 90% discounts cause applicants to spend twice as much per student as applicants with lower discounts. • Bring the top share in line with the Rural Health Care program. • Reduce fraud. The 10% undiscounted amount is so small, it is easy to create schemes to defraud the program. Almost all the fraud committed so far in the program has involved applicants with a discount of 80% or higher. <p>By increasing the discount for the applicants with fewer than 1% NSLP-eligible students would increase participation by private schools. The low discount level at the bottom of the matrix is a disincentive for private schools. Currently, only 21% of private schools participate in the E-Rate program (http://blog.on-tech.com/2011/12/whos-missing-gravy-train.html). If the Commission wants to continue to discourage private school participation, a 20% discount band could be added at the bottom of the matrix.</p> <p>The proposed matrix does not have a separate column for rural applicants. A small increase in the discount percentage will not provide a substantially greater incentive to install broadband, so rural schools should not receive a higher discount.</p>
124	<p>The Commission should not reduce the lowest discount level. Participation rates are very low among applicants without documentable low-income students. The small increase in the lowest discount proposed above will not have a significant impact on the fund, but will represent a significant increase in funding available to applicants in that category.</p> <p>The Commission should not provide a higher discount for consortia. A higher consortium discount would increase consortium purchasing only in those cases where a less cost-effective consortium solution is made artificially more cost-effective by the higher rate of E-Rate funding. Applicants should choose the more cost-effective solution. Giving consortia a higher discount rate would put a thumb on the cost-effectiveness scales.</p>
128	<p>I agree with the State E-Rate Coordinators Alliance that the Commission should adopt the use of a single district-wide discount for all funding requests. This will simplify the application process and remove perverse incentives to provide different services to different locations based on student income level. It will also clarify the correct discount to apply to a device which serves more than one school.</p> <p>Library systems should also use enrollment and NSLP totals for the school districts they serve to create a single discount, which would apply to all branches in the system.</p> <p>Consortia should also use totals of all students served, instead of averaging the discounts of consortium members. Take the example of two districts forming a consortium. The first district has 20,000 students, 2,000 of them eligible for NSLP, meaning a 40% discount. The second district has 1,000 students, 800 of them eligible for NSLP, meaning a 90% discount. The consortium would have 21,000 students with 2,800, 13.3% of the total, NSLP-eligible. Yet under current rules, that consortium would have a discount of 65%,</p>

	<p>the average of each members discount. It would be fairer to calculate the discount based on the sum of enrollment and NSLP numbers. A library in the consortium would add its enrollment and NSLP numbers to the consortium totals.</p> <p>The assignment of discounts would be clearer to applicants if the Commission adopted the proposal made above in response to paragraph 54. Discounts would be attached to “organizations” not “locations.” In addition, Block 4 would be automatically populated with all the locations tied to the organization filing the form. Consortia would be a combination of organizations.</p> <p>The program could be simplified if Block 4 were separated from the Form 471, and completed by USAC. Every year, USAC reviews every entity of every Block 4, and if the discount does not agree with the numbers in its own database, the applicant is required to submit documentation supporting the difference. Instead, USAC should create a Block 4 for each organization, and that organization would have an opportunity to review the information and refute any discrepancies. The existence of a free-floating discount calculation for each organization would mean consortia would be free of having to collect enrollment and NSLP data from members; the consortium would simply add organizations to its Block 4, and the numbers would flow through from the organization’s Block 4 data.</p> <p>A separate Block 4 would mean less work for schools and libraries, less work for USAC once it was set up, much less work for consortia, and shorter PIA review times. In addition, since Block 4 review could take place before the window, issues would be resolved before the PIA crunch time.</p>
131 and 132	<p>On-Tech supports the change to having all applications submitted on a district-wide basis.</p> <p>With the removal of school-by-school variation in discount level, it will no longer be necessary to track transfers of equipment within a district, which will remove a considerable administrative burden from applicants and USAC.</p> <p>If the Commission adopts the “organization” and “location” nomenclature proposed under paragraph 54 above, it will be clarify this change: organizations file forms, locations do not. Organizations go in Block 1, locations go in Block 4.</p> <p>Allowing only one Form 471 per category of service would create problems, not solve them. It is true that additional forms create marginally more work for applicants and USAC, and most applicants realize that it is usually in their interest to file a single application. There are times, however, when an applicant is ready to file an application for most services when the window opens, but has one service for which it will not have a contract until the end of the window. It is not in the interests of the program to force that applicant to delay filing. Or an applicant may choose to create a separate form for a service whose eligibility is unclear. Allowing multiple applications allows much more flexibility, and generates a negligible decrease in efficiency.</p> <p>If the Commission wants to decrease the number of Form 471s filed, the nature of the form should be changed, so that the information in Blocks 1 through 4 could be filed any time, and Block 5 items could be appended during the window, not necessarily all at the same time, and Block 6 submitted after all FRNs are complete. By being able to complete much of the form complete before the window, the window crunch would be less for applicants,</p>

	<p>and the post-window crunch would be less for PIA.</p> <p>Likewise, FCDLs could be issued on an FRN-by-FRN basis, and would not all have to be issued at the same time, so that there would be no reason to create separate applications for each priority of service.</p>
133	<p>The evidence cited in paragraph 136 indicates that costs are higher in urban areas than in rural areas. Since funding is determined as a percentage of costs, funding is concentrated on applicants with higher costs. Giving applicants which are situated in locations where costs may be higher (though the evidence does not necessarily point to that) concentrates funding further.</p>
135	<p>I agree with the State E-Rate Coordinators Alliance that a per-student budget approach is not appropriate. The 2003 USAC Task Force did not recommend that funding be allocated on a per-student basis; they recommended that caps be placed on exorbitant funding requests. Those caps already exist in the form of the secret bright-line standards which trigger Cost-Effectiveness Reviews.</p>
138	<p>I agree with the West Virginia Department of Education that instead of a per-student or per-building limit, USAC should flag excessive requests. The Commission should publish the standards that trigger Cost-Effectiveness Reviews as soft caps; if applicants exceed those amounts, they will have to demonstrate that the higher costs are justified as part of a special review, without having to request a waiver from the Commission. This would allow applicants in remote areas to demonstrate that they have higher funding needs, as well as cover other exceptional circumstances. With soft caps, there would be no need to add adjustments for remote rural or Tribal schools, or schools which serve profoundly disabled students or schools with a technology focus, or based on current costs, or any other reason. The soft caps should be set at a high level, so that most applicants would not be subjected to a special review. The cap should be set at a level would prevent the most egregious overspending without forcing USAC to conduct too many Cost-Effectiveness Reviews.</p> <p>To set the initial level of the soft cap, the Commission should analyze Priority One funding requested by applicants for Funding Year 2013, and set the cap at the level at the spending of applicants in the 80th percentile. The data in paragraph 136 indicate that applicants the 90th percentile spent \$180 per student, so the 80th percentile would probably be in the \$100-\$150 range. Similarly, the per-patron spending for libraries would be initially set at the 80th percentile of spending for FY 2013.</p> <p>The Commission could set the soft cap each year at the time that the Eligible Services List is published.</p> <p>If the Commission adopts the soft-cap thresholds, it should make clear to USAC that an applicant which passes a Cost-Effectiveness Review should not be reviewed again in subsequent years unless its funding request increases by 20% or more.</p>
139	<p>the Commission should not establish a per-student budget. My opposition is based on the following reasons:</p> <ol style="list-style-type: none"> 1. The Commission cannot anticipate every factor which would justify a higher per-student allocation. A soft cap would allow higher spending in exceptional circumstances without requesting a waiver from the Commission.

	<ol style="list-style-type: none"> 2. If an applicant which currently spends \$45 per student is given a budget of \$90, spending will increase to \$90. 3. The Commission (and other stakeholders) would no longer have any indication of actual demand. Applicants would make their funding requests equal their budget. 4. With a per-student budget, the Commission would no longer be able to set priority levels to ensure program expenditures reflect Commission goals for the program. Applicants could choose to spend their funding on cell phones instead of broadband.
144	<p>I agree with the West Virginia Department of Education that the 2-in-5 Rule should be rescinded. The 2-in-5 Rule should be eliminated for the following reasons:</p> <ol style="list-style-type: none"> 1. It adds complexity by forcing applicants to combine all network upgrades into one year, instead of staging them over a few years. 2. The rule is unfair to small applicants, who are not able to spread out expenditures across locations, and have difficulty with the budget surge caused by purchasing equipment every 3 years, instead of spreading purchases evenly across fiscal years. 3. The rule is a failure. It has had no demonstrable effect on demand. 4. The rule encourages applicants to spend more by shortening replacement cycles. Instead of using a normal replacement cycle of 4 years for a server, 5 years for a switch and longer for a phone system, applicants are encouraged to replace everything every 3 years.
145	<p>The rotation system suggested by the State E-Rate Coordinators Alliance adds a great deal of complexity, and creates a longer cycle than the 2-in-5 Rule, further disadvantaging small applicants.</p>
147	<p>As described under paragraph 148 below, the Commission should align the program's priority levels with program goals. If the Commission wishes the program to focus on student wireless access to broadband, then it certainly makes sense to put wireless access points at a higher priority than, say, phone service or paging.</p> <p>Removing priority levels would free applicants to use funding on any service, without regard to program goals. Priority levels are an important tool in ensuring that the Commission can achieve the program's stated goals.</p>
148	<p>I agree with the State E-Rate Coordinators Alliance that broadband services and equipment should be prioritized, but the Commission should create more than two priority levels to ensure that more essential services are funded before less important ones. I suggest six levels of priority:</p> <p>Priority 1: Digital transmission circuits Basic conduit Internet access</p> <p>Priority 2: Wireless access points Digital transmission equipment, up to routers Firewalls Content filters required by CIPA</p> <p>Priority 3: Internal bandwidth distribution Cabling Routers, switches, access points, WLAN managers</p> <p>Priority 4: Voice services/equipment</p> <p>Priority 5: Internet-related services</p>

	<p>Email service Web hosting Priority 6: Equipment maintenance</p> <p>The Eligible Services List (ESL) should be organized by level of priority.</p> <p>After a year or two, it may become apparent that the fund will always be able to fund priorities one through three can always be funded, and they can be folded into a single priority.</p> <p>If the Commission decides that leased fiber better meets the program's goals, leased fiber could be left in Priority One, while other digital transmission technologies could be moved to Priority 2 or 3.</p>
149	<p>The Commission should not adopt a simplified-allocation approach for the following reasons:</p> <ol style="list-style-type: none"> 1. The program would cease to promote telecommunications and would simply be a fund to support education. 2. The Commission would have no ability to influence success in achieving the program's goals. Unless the Eligible Services List contained only services of equal usefulness in meeting program goals, applicants would be free to choose less useful services. 3. The flat funding amount would be a disincentive to applicants to improve their technology infrastructure. The simplest course for applicants will be to maintain their current infrastructure. 4. In order to be fair to all applicants, the algorithm for determining the funding size would have to be very complex.
159	<p>I agree with the West Virginia Department of Education that the Commission should abandon the Form 470, competitive bidding rules, and other attempts to oversee the purchasing decisions of local government agencies, but that is not tied to the simplified-allocation proposal. There is nothing in the simplified-allocation approach which would make applicants choose more cost-effective options than they would choose without the simplified allocation.</p>
160	<p>Since the simplified-allocation proposal still requires applicants to spend the funds on eligible services, an application is still necessary to show that applicants are spending the money correctly. If the service eligibility review were put off, the Commission would be forced to recover much more improperly disbursed funding.</p> <p>Even if USAC unilaterally determined the allocation for each applicant, there would have to be an opportunity for applicants to dispute the allocation.</p>
162	<p>If the Commission decides to adopt the simplified-allocation proposal, a second NPRM would be necessary to allow applicants to comment on the proposed allocation and application systems.</p>
164	<p>The Commission should not condition funding on state or local policy changes. Applicants do not set those policies. The Commission should not be in the business of deciding if state and local governments made the correct decision is setting policies.</p>
166	<p>As Verizon has pointed out, rescinding the gift rules would increase public-private partnerships. Rescinding rules about service provider involvement before the posting of the Form 470 would also increase partnerships. Removing all FCC regulations concerning the purchasing practices of state and local governments would further promote</p>

	partnerships.
167	FCC rules concerning service provider involvement before the posting of the Form 470 make it impossible for “ETCs to engage with ... schools and libraries, in the network planning stages with respect to the deployment of Connect America-supported networks.”
168	It is already beyond the capability of most applicants to design a fiber WAN. Requiring applicants to divide the design into portions that would be funded by different program would be a strong disincentive to deploying fiber. If the Commission would like to shift some of the cost of connecting schools to the High Cost program, that should be managed by USAC with information collected from service providers. Applicants could apply for E-Rate funding as usual, and then USAC could work with the service providers to determine if funds should be transferred from the High Cost fund to the E-Rate fund.
169	Imposing a model-derived cost on service providers would be preferable to imposing the current additional layer of competitive bidding rules on applicants. A soft cap based on the model-derived cost would also be preferable to the Commission’s competitive bidding rules, as long as applicants could justify a higher cost without having to appeal to the Commission by undergoing a special review from USAC.
174	<p>I agree with many commenters that a permanent increase in the size of the E-Rate fund is necessary to fund the Commission’s goals. The best estimate of the funding required to supply 100 Mbps broadband to each school in the country (http://www.fundsforlearning.com/blog/2013/06/counting-the-cost-estimating-what-it-will-take-to-get-connected) is that it will require between \$2.3 billion and \$3.6 billion in E-Rate funding. To reach 1 Gbps, the program will need between \$8.7 billion and \$17 billion annually. The estimate for internal connections to provide wireless is \$7.7 billion. Applicants would need to replace that infrastructure every 3-5 years, so the annual cost would be roughly \$1.5 billion. So just to give students a wireless 100 Mbps connection to the Internet will require at least \$3.8 billion annually. To reach 1 Gbps, the fund will need at least \$10.2 billion annually. The Commission should take steps to permanently increase the fund to meet those goals.</p> <p>If the Commission decides that the program should include anything beyond wireless LANs, WANs and Internet connections, the fund will have to be increased further to meet those needs.</p>
175	<p>The Commission should not create competitive grant programs within the E-Rate program. First, such programs will add considerable administrative burden. Second, it will create funding uncertainty, which will inhibit planning by applicants. Third, because of the wide variations in circumstances, what is a best practice or the most cost-effective approach for one applicant may not be practical for another applicant.</p> <p>A more effective approach would be to create more transparency on how applicants are spending E-Rate funding, so that applicants can look to similarly situated applicants to see what they are doing.</p>
179	I agree with the State E-Rate Coordinators Alliance suggestion that state contracts be exempted from E-Rate procurement rules regardless of whether the state posted a Form 470. The process of implementing a state contract is rigorous enough that the posting of a Form 470 will do nothing to increase competition, and can get in the way.
180	I disagree with Sunesys’ statement that the Commission should provide incentives for consortia and bulk purchasing. There is no actual evidence for the effectiveness of

	<p>consortium purchasing. While it is often stated that consortia reduce costs, there is no data to back up those claims. The Healthcare Connect Fund Order (http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-150A1.pdf) gets its evidence from the Wireline Competition Bureau Interim Evaluation of Rural Health Care Pilot Program Staff Report (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1332A1.pdf). That report cites 4 examples as proof:</p> <ul style="list-style-type: none"> • A letter (Colorado Telehealth Network Feb. 28 Ex Parte Letter) which states that the members got better pricing, • one letter stating that members negotiated individual agreements, and • two comments on phone calls that sharing reduced costs, not that prices were reduced (Pilot Conference Call Mar. 13 Ex Parte Letter (PMHA et al.) and Pilot Conference Call Mar. 26 Ex Parte Letter (WNYRAHEC et al.)). <p>Only one of those items actually says that consortium pricing was lower.</p> <p>The report also relies on USAC Data Reporting letters like http://apps.fcc.gov/ecfs/document/view?id=7021996258, which says things like, “Through conversations with Pilot projects, USAC observed that projects were able to obtain lower rates for services and to realize other purchasing efficiencies because the services were competitively bid and the projects purchased services for a consortium of HCPs. In situations where a project chose to bid as a whole network, service providers appeared more willing to provide large discounts because the Pilot projects had a large number of HCP sites.” and “Based on discussions with Pilot projects and observations during the course of the Pilot program, USAC believes that these consortium arrangements provided the individual HCPs with lower rates” without providing any actual data on price.</p> <p>The FCC’s assertion that consortia and bulk buying result in better pricing seems to be completely based on a few statements by program participants that they had gotten good prices. However, those participants did not compare consortium pricing to non-consortium pricing. We have evidence of USAC’s belief that consortia lower prices, but no evidence that prices were actually lowered.</p> <p>There is certainly no evidence that consortium pricing is lower than the lowest corresponding price (LCP).</p>
182	<p>There are three steps the Commission could take to remove barriers to participation in consortia:</p> <ol style="list-style-type: none"> 1. Adopt the organization/location nomenclature mentioned above under paragraph 54. This would clear up confusion about who the consortium members are. Organizations join consortia; locations do not. 2. As proposed under paragraph 128 above, have discount determinations completed by USAC before the start of the filing window. The consortium lead would simply identify the organizations in the consortium, and the discount would be automatically calculated by USAC based on members’ discount filings. 3. Remove the requirement for each member to supply a separate E-Rate Letter of Authorization to the consortium lead. USAC should instead review the consortium agreement if it requires evidence that the consortium is authorized to make procurements on behalf of the member. If USAC wanted to provide another safeguard, they could send applicants a notification when their organization has been

	<p>included in a consortium's discount calculation.</p> <p>4. Remove the requirement for the Form 479, which springs from having CIPA certifications shoe-horned into the Form 486, which has led to the mistaken impression that CIPA certifications should be made on an FRN-by-FRN basis. CIPA certifications should be made once annually for each organization. That CIPA certification would flow automatically to the consortium. USAC could easily send warnings to consortium leaders if a member organization has not filed its annual CIPA certification.</p> <p>It should be noted that if the Commission moves to a per-student budget for funding, it will complicate consortium applications, as districts will somehow have to assign part of their funding budget to the consortium.</p>
186	<p>The Commission should not try to encourage any particular purchasing methodology. The Commission should allow applicants to select the most cost-effective service provider using whatever means they choose. Bulk buying will not result in the most cost-effective service in all cases.</p>
187	<p>The Commission should not create a formal bulk buying program. Such a system would be very complex, and would not have a significant impact on prices. Managing procurements for local governments and private schools is well beyond the expertise of the Commission or USAC.</p>
190	<p>The Commission can encourage E-rate applicants to leverage district, regional and R&E networks to lower prices by decreasing the top discount percentage. By increasing the amount an applicant has to pay for a service, the Commission would encourage them to seek lower prices by whatever means possible, including these other networks.</p>
192	<p>I disagree with the West Virginia Department of Education that Item 21 Attachments should be suppressed. E-Rate spending could be made transparent by publishing all Item 21 Attachments online. Any Item 21 Attachments filed on paper should be scanned and made available online.</p> <p>In order to make that data truly useful, it would need to be standardized. The online tool currently does that to some extent, but to standardize data collection, a form is required. The Item 21 Attachment should become part of the Form 471, since that form cannot be processed unless the Commission collects the data currently collected through the Item 21 Attachment.</p>
193	<p>Moving data collection from the Form 471 to the Form 486 does not reduce the burden on applicants, it only postpones it. The data collection could be simplified by acknowledging that applicants rarely change the number of locations, and while the number of students per location changes constantly, the changes are rarely significant. If the Commission implements the separate discount-determining process described under paragraph 128 above, USAC would have all the information needed on buildings and students affected. If the district needs information on the number of classrooms or public rooms affected, that information should be included in USAC's database of locations (now called "entities"). The number of rooms in a building rarely changes significantly, so perhaps applicants could be asked every 5 years or so to review the accuracy of that data.</p>
196	<p>I agree with the New America Foundation that Item 21 Attachments should be publicly available online. Some service providers might eschew participation, but those will not be the most cost-effective service providers. It would also remove the burden from service</p>

	<p>providers of having to provide pricing to the public as required by 54.501(c)(3).</p> <p>Secrecy of pricing is inherently anti-competitive, and facilitates price-fixing and collusion.</p> <p>If the Commission also stopped requiring signed contracts before the Form 471 is filed, and rescinded its restrictions on changing service providers, publishing the pricing would also create much more effective competition than the current competitive bidding system.</p> <p>Transparent pricing would also allow some applicants to ensure that they were not paying more than other applicants, but would only be partially effective in ensuring that applicants received the lowest corresponding price, since it would have only the pricing for some of a service provider's clients.</p>
198	<p>I agree with the West Virginia Department of Education that USAC should help applicants identify the best pricing. If applicants were not required to sign contracts before filing the Form 471, and were allowed to switch service providers, USAC's assistance with pricing could be folded into PIA review; a technical team could review the Item 21 Attachment and suggest alternatives to the applicant. If the Item 21 Attachment were standardized and published, applicants would have access to the price information, but USAC reviewers, with the advantage of seeing many applications, might have useful suggestions. But of course, the ultimate decision on cost-effectiveness should be left to applicants.</p> <p>Given the failure of the database of eligible equipment, it seems unlikely that a database of more complex telecommunications pricing seems unlikely. Access to standardized Item 21 Attachments would be almost as useful, and much easier to administer.</p>
199	<p>A "best price" would be impossible to determine for many services. For example, the cost of fiber WANs is affected by distance, the need to rearrange facilities on poles, availability of conduit under highways, and many other factors. The price of one fiber installation is only vaguely related to the cost of another installation.</p>
200	<p>Instead of trying to build a set of teams at USAC that could learn local conditions for every school and library in the country and design appropriate networks, the Commission should lift its ban on service provider involvement in writing specifications. Instead, the Commission should require that specifications should not favor any one vendor.</p> <p>In addition, the Commission should make WAN design fees eligible for E-Rate funding, so that applicants can employ a local professional to create a design, and the fund will only have to pay the discount cost to the service provider, instead of paying full price to USAC for the design.</p>
202	<p>The Commission should not oversee the purchasing process of local governments. There is no evidence that the competitive bidding process has resulted in lower prices, and there are many examples of well-meaning applicants being denied funding because of bidding violations which did not result in higher costs, but did not satisfy some vague E-Rate requirement.</p>
203	<p>In order to effectively generate competition, the Form 470 must be changed to require some standardization of service names, and that enough information be on the form itself for a service provider decide if the service falls within their capability.</p> <p>For example, in April 2013, I downloaded the Form 470 information for FY 2013, and went through it to look for requests for telephone service. The first 8 requests used the following descriptions:</p>

	<ul style="list-style-type: none"> • “Phone services” • “Local Voice Service” • “Local, Long Distance & Intralata phone service” • “Local and/or long distance phone svc” • “local and long distance voice service” • “Telephone Land Lines” • “Local Telephone service” • “Local Phone and Long distance service” <p>Potential bidders cannot efficiently search Form 470 postings.</p> <p>The Form 470 should be revised so that applicants select from a drop-down menu of items taken from the eligible services list. For each item, there should be a “Quantity (number of lines)” column, a “Bandwidth” column and a “Description” column.</p>
204	<p>It would not be a good use of program resources to create a team to become expert in the state master contracts of all states and territories. Not all state master contracts can be used by local government bodies. In New Jersey, for example, school districts and libraries can purchase phone systems from state contract, while data network equipment is purchased through the Western States Contracting Alliance (WSCA). Schools and libraries cannot purchase hourly basic maintenance services through state contract or WSCA. Meanwhile, districts are expected to purchase long distance services through the ACT Consortium (a purchasing cooperative). Phone service, as a tariffed service, can be purchased without bid, but cell phone service is on a state contract which districts can use; many choose not to because the state contract does not include free phones. This is far from all the state-contract-related issues for NJ; they are issues off the top of my head, and I am not a purchasing officer. USAC would need a large team of employees to keep track of these complexities for all states and territories.</p>
206	<p>The FCC should exempt FRNs below a certain threshold from competitive bidding requirements. The FCC should adopt the \$25,000 threshold used for federal grants. FRNs which request less than \$25,000 in funding should be exempt from competitive bidding requirements.</p>
207	<p>Applicants should be able to take advantage of state master contracts consistent with state law without additional restrictions from the Commission. State law has determined that these purchases are cost-effective, and state law should not be overruled by a federal Commission.</p>
208	<p>The Commission should not require contracts before filing the Form 471. For the vast majority of applicants, it is illegal to sign contracts in March for services that will not start until the following funding year, because their budget for the following funding year has not yet been approved.</p> <p>The Commission should not require contracts at all. In most cases, applicants and service providers will want to have a contract before services start, but it should not be a program requirement. Funding commitments can be issued based on quotes; requiring a contract does not lower the risk of waste, fraud or abuse. Disbursements issued based on paid bills; they are never affected by the existence of a contract. The existence of a contract does not prevent waste, fraud and abuse. Requiring contracts 4-15 months before service starts</p>

	often creates waste in cases where prices go down between the time of the contract and the implementation of service. Particular in the case of telecommunications services and equipment, it is wasteful to sign contracts months in advance of the start of service.
209	The Commission should have service providers certify on the SPAC that all their services will be offered at LCP. If pricing information is made transparent, outside watchdogs will be able to determine if applicants are receiving LCP, so no USAC resources will need to be used to ensure compliance.
213	USAC does employ bright-line standards for cost-effectiveness. Based on appeals from past FRNs, we can see that USAC has denied applications when the following ratios are too high: cost/student, drops/student, servers/student, switches/student, and wireless access points/student. The existing bright-line standards should be made public, which will create soft caps.
214	<p>The Commission should not attempt to regulate whether an applicant is using all the capabilities of a service. Attempting to do so will create a great deal of complexity, and will frequently put applicants in an impossible position.</p> <p>An applicant purchasing an 802.11n wireless access point, for example, not be able to find a model that does not also have 802.11b and 802.11g radios. That applicant should not be punished for not using the 802.11b capability of that access point. Similarly, if a district has purchased a cell phone for emergency use on a school bus, they will not want to use the included voicemail feature.</p> <p>For every service, there are capabilities that are not needed by every applicant, so requiring applicants to use every function of every service will force applicants to waste time using unnecessary functions just to satisfy E-Rate rules.</p>
215	<p>The Commission's eligibility and priority rules put a thumb on the cost-effectiveness scale. The function of the program is to influence applicants' cost-effectiveness calculations; the Commission hopes that applicants who found 100 Mbps Internet connections to be cost-prohibitive will find that circuit cost-effective if the cost is discounted 40%. If the discount is 90%, price becomes irrelevant. At levels of 80% and above, the discount creates perverse incentives. While an applicant would replace network switches every 5-8 years or so, a 90% discount, combined with ineligibility of warranty service and the 2-in-5 Rule, it becomes much more cost-effective to replace switches every 3 years. Lowering the top discount percentage will increase the importance of cost in applicants' cost-effectiveness calculations.</p> <p>The Commission's current priority system means that for most applicants, the discount for Priority Two services is zero. This means that for a 40% applicant, a Priority One service that costs 30% more than a Priority Two solution is less expensive after the E-Rate incentive. For an 80% applicant, a Priority Two solution would have to be over 80% less expensive than an equivalent Priority One solution in order to be more cost-effective.</p> <p>Some examples of these perverse incentives from my own experience:</p> <ol style="list-style-type: none"> 1. A small high-discount school considered using cell phone service as an intercom system. The school could not afford the one-time cost of a phone system/intercom and cabling to each classroom. In addition, the school could not afford the cost of handsets, and the cell phone service would provide free handsets. Given the perverse

	<p>E-Rate incentives, the least expensive solution was to bolt a cell phone to the wall of each classroom.</p> <p>2. E-Rate applicants are moving away from replacing phone systems, and opting instead for hosted VoIP, especially since free handsets are available as part of a bundled service. Absent E-Rate incentives, replacing the phone system would be significantly more cost-effective, but the priority rules flip the cost-effectiveness calculations. The ineligibility of unbundled warranty service on phone systems further skews the decision in favor of hosted solutions.</p> <p>By dividing priorities according to the physical nature of the service, rather than its purpose, the Commission creates a bias against equipment and tilts the playing field, encouraging applicants to purchase more expensive services. Instead, the Commission should create priorities of funding based on function, as described under paragraph 148.</p>
216	<p>The Commission should not create an incentive for long-term contracts, but should remove rules which discourage applicants from considering long-term investments.</p> <p>Multi-year funding commitments would give applicants confidence that E-Rate funding will be available for the length of the contract. Currently, applicants need to factor in the risk that changes in the E-Rate program will mean the contract is no longer fundable in future years.</p> <p>The current rules require that the installation cost of a fiber network be amortized over time. This forces service providers to finance the cost at a higher interest rate than is available to a public school district, and doesn't allow applicants to avoid interest payments entirely if they have sufficient funds to cover the one-time payment.</p>
217 and 218	<p>The Commission should not regulate applicants' planning process. While planning is useful, mandated planning is not. The Commission's technology planning rules did not result in better planning, but did cause applicants to spend hours developing plans which sat on a shelf, to be dusted off every three years and updated to comply with Commission rules.</p> <p>The Commission should not regulate the educational decisions of local boards on how many devices to provide for students.</p> <p>The Commission should not regulate the decisions of local boards concerning staff training.</p>
219	<p>A small school district (with 1,000 students) will create a committee of 5-15 stakeholders to create a technology plan. For a small applicant, one or two of those members will spend 5-10 hours collecting the information necessary to complete the plan, and another 5-10 hours to write the plan. The full committee will meet for a total of roughly 4 hours, and each board member will spend about an hour reading the plan. Given an average staff cost of \$40/hour, the plan costs \$3,200 in staff time. That is a ballpark figure for a small district technology plan that will be shelved. To create a useful plan would cost thousands more. A plan for a large district would obviously cost much more.</p> <p>If the Commission stops requiring technology plans, those applicants that were actually using their plans will continue to do so. Those applicants that created their plans because of E-Rate rules will no longer have to go through the time-consuming charade of creating a</p>

	plan every three years, and then putting it on a shelf.
220	Rather than piloting loopholes to its current rules, the Commission should concentrate on removing regulatory impediments to cost-effective purchasing. If the Commission creates rules to encourage any particular type of purchasing, applicants will use that type of purchasing, even if it is not the most cost-effective.
221	Rewarding applicants for reducing pre-discount costs would create truly perverse incentives. The first question in determining whether an applicant had successfully gotten a lower pre-discount price, of course, is “lower than what?” If applicants will be rewarded for the difference between the highest and lowest bids, applicants will seek out high bids in order to show a big “savings.” If applicants will be rewarded for lowering costs year on year, in addition to profiting from the natural decrease in prices, applicants would be discouraged from seeking long-term contracts, since that would keep prices steady. If the incentives were strong enough, it could encourage applicants to manipulate the process by choosing a higher price for one year knowing that they would then get a bonus in future years, or sign multi-year contracts with an inflated first-year cost and decreasing costs in subsequent years.
224	<p>Simplifying the E-Rate process should be a goal, but getting rid of consultants should not be. The use of a consultant does not increase the cost of complying with E-Rate requirements, it only makes the cost obvious. Having in-house staff manage the E-Rate process does not necessarily reduce cost, it only makes the cost more difficult to identify.</p> <p>It is common management practice to outsource tasks that are outside an organization’s core mission and competency. Even if drastically simplified, the E-Rate program will remain outside schools’ and libraries’ core mission and competency, and thus a good candidate for outsourcing.</p> <p>In fact, consultants strengthen the program. For example, we are usually the first to identify problems with application processing, since we are able to see patterns better than a single applicant. Many of the suggestions in the current NPRM came from consultants; since we spend our entire day immersed in the E-Rate, we are more likely to be musing about the program in the shower, and our broad experience enables us to see what changes would be helpful. There is no other group in the program that has broad hands-on experience in the E-Rate process.</p>
228	I agree with the Independent Telephone & Telecommunications Alliance that that all required forms should be filed online. At the 2006 USAC training, we were informed that USAC rejected 80% of all Forms 471 filed on paper. The vast majority of the time, an applicant preparing a paper Form 471 is just wasting his or her time. Paper forms create more work, more opportunity for error, and slow the process.
229	<p>SECA’s suggestion that all forms and correspondence should be available online is good, but does not go far enough.</p> <p>I agree with SETDA that modernization efforts should reduce participant burden. The Commission should charge USAC with completely rethinking its systems from the applicant perspective.</p> <p>If the Commission chooses to continue regulation of local government purchasing</p>

practices, the Form 470 should be part of a procurement portal, which would not only offer a more robust ability to describe services sought (and normalize the terminology to avoid the problems described under paragraph 203 above). The Form 470 would no longer provide applicant contact information, which is currently exploited for spam and phishing attacks, but would have a facility for service providers to ask questions and applicants to answer them. All questions and answers would be public, so that there would be no question of one potential bidder getting more information than others. Bids would be made through the portal. Applicants would create Evaluation Matrices online. Selective Reviews, currently a multi-page form sent to applicants, would be almost entirely be answered by information already collected by the USAC portal. USAC and the Commission would have precise information on how many applicants receive no bids. Auditors would not need to request much information from applicants, since it would already be in the portal. Each item on the Form 470 would have 4 columns: 1) a drop-down of items from the Eligible Services List, 2) quantity (# of lines), 3) capacity (bandwidth) and 4) description. The first 3 columns would allow service providers to quickly filter down to items of potential interest, and the Description column would allow applicants to provide other details that bidders might need. In order to simplify the process, applicants should have the option to import items from past Forms 470. Based on the selection in Column 1, the form will show applicants if they will need to be CIPA compliant.

The Form 471 should be broken into two parts, as described in paragraph 128 above. Block 4 would be automatically completed by USAC based on third-party information, with an opportunity for applicants to dispute the numbers. Block 5 would be pre-populated based on the information gathered from the bids and evaluation matrices from the Form 470 portion of the portal. For most applicants, the only task for the Form 471 would be certifying the form. The items listed on the Form 470 would carry through to the Form 471. Applicants will be informed if they need to comply with CIPA based on the services selected.

The Form 471 should be expanded to include all the information required by PIA. The Item 21 Attachment, for example, is a required data collection, and so should be approved by OMB. The form would appear more complicated, but in fact it would simply be showing the complexity that is currently hidden by requiring information in an attachment. The Form 471 would have to be updated to match the PIA procedures each year, to reflect the new data collection requirements.

I agree with the Independent Telephone & Telecommunications Alliance that PIA review should be automated. Currently, each USAC's system automatically generates "exceptions" for each Form 471, issues that must be resolved before the form can be approved. Those exceptions are viewed by a PIA reviewer, who then fills in a form letter requesting information, and delivers it to the applicant. With very little change, the Form 471 exceptions could be sent straight to the applicant, with a link to the section of the PIA manual that explains what the exception means, and what kind of documents are needed to resolve the issue. The increase in speed would be phenomenal; within minutes of posting the Form 471, applicants would know all the PIA questions. Applications could be approved within hours of submission. No longer would applications languish for months before a PIA reviewer has time to request information. Certainly USAC would want to

	<p>increase Quality Assurance, perhaps even requiring QA for all applications in the early years; reviewers would spend their time reviewing, not creating form letters. They would also need to add staff to answer applicant questions about the exceptions. But the increase in QA and CSB staff would be far smaller than the decrease in PIA staff, leading to a savings in administrative costs for the program.</p> <p>The portal should automatically generate a Form 486 of all Priority One services with start dates taken from the Form 471, and allow applicants to edit as appropriate. CIPA compliance information, which has flowed from the Form 470 through the Form 471, will automatically populate for each FRN. The only data a typical applicant should need to enter is the signature PIN.</p> <p>For the Form 472, applicants should only need to select which FRNs are to be included, and input the amount spent. A worksheet attached to each FRN would allow applicants to enter individual bills if they chose. In later versions, this worksheet would be able to import information from service provider billing systems. Note that if the Commission adopts the proposal in paragraph 261 to reimburse applicants directly, there will be no need to create a separate BEAR for each service provider, so most applicants would need only one BEAR per funding year.</p> <p>All other required forms, whether currently described as forms or not, should be part of the portal. In addition to the Form 500, service substitution and SPIN change requests should be online forms.</p> <p>Applicants should be able to create users and grant them either review or edit access. So a large district might give the Tech Director permission to write (but not certify) the Form 470, but only review the Form 471, which would be written by a purchasing officer. PINs should be reserved for certifications, never as a password for logging in.</p> <p>When users log in, they should arrive at a dashboard showing active FRNs and their status, with the option to see information from previous years, run reports, etc.</p> <p>Users should be able to add BENs to their dashboard, and run reports across BENs. Obviously, a user would need an LOA to add a BEN to the dashboard, but this ability would allow consortia to easily track the status of FRNs and see issues quickly.</p> <p>All changes to the system should result in an email sent to any addresses the applicant wishes. Applicants would automatically receive instant notification of a change in status during the application process, acceptance of forms, approval or service substitutions, etc.</p>
230	<p>USAC's internal systems should be rebuilt from scratch as a tool for applicants. The cost of the system would be recouped within a few years from decreased administrative costs for PIA and audits. Such a system would also reduce the cost to applicants to complete the application process, whether they pay in-house staff or hire a consultant. If the portal and the dashboard were intuitive enough, more districts would opt to keep the cost of managing the application in-house rather than outsourcing to consultants.</p>
231	<p>If USAC creates an applicant portal which simplifies the application process, it will reduce the largest, but hidden, administrative cost of the E-Rate program: applicant staff time spent managing the E-Rate process. A system which reduced the amount of staff time spent on the E-Rate would reduce the hidden administrative cost of the program by</p>

	approximately \$840,000 (21,000 applicants x 1 hour/applicant x \$40/hour).
232	<p>The Commission should completely change the current culture of the application review process. Applicants and reviewers should be partners in the review process, not adversaries. The first step is to publish almost all of the secret 700-page PIA procedures manual. The routine processing of funding applications by private sub-contractors should no longer be kept secret as a law enforcement action.</p> <p>Currently, applicants are only given information about their applications on a “need to know” basis. There is no reason that the employee of a private for-profit sub-contractor (Solix) of a private non-profit subsidiary (USAC) of the National Exchange Carrier Association should have more information about an application than a representative of the public entity that submitted the application. During review, the applicant should be looking at the same screen of information as the PIA reviewer.</p> <p>SECA’s suggestion is good, but does not go far enough. Applicants should know exactly what tasks need to be completed, and who needs to complete them. Applicants should also have access to the history, so that they can see how long the application spent at each step, and create reports on that data.</p>
234	<p>I agree with the Independent Telephone & Telecommunications Alliance that the Commission should implement application review deadlines. The Commission should require that USAC should process all Priority One applications within 60 days. Applications at lower priorities should be approved within 60 days of the denial threshold being set for that priority. This will reward applicants who file early by ensuring them early approval, and almost all applications could be approved in time for applicants to file the Form 486 and get discounts started on July bills.</p> <p>The 60 days should not include any time that USAC is waiting for information. If applicants are notified that additional information, the 60-day clock would pause until the information is received. For applications chosen for Selective Review, Cost-Effectiveness Review or other heightened scrutiny, USAC would be given an extra 30 days. Applicants who would like their application to receive more lengthy review should have the option to pause the 60-day clock.</p> <p>Tight deadlines would reduce unnecessary review of routine applications. It would also provide a strong incentive to USAC to automate procedures.</p> <p>USAC should pay a penalty of 1% of the funding requested for every day over 60 that an application is not processed. If the penalty is not tied to the number of days, USAC will have no incentive to do any work on an application that has passed 60 days. Making the penalty a percentage of funding will discourage USAC from neglecting large applications.</p> <p>Obviously, this aggressive schedule is only possible if the PIA process is automated, as described under paragraph 229 above. After an application is submitted, the automatically generated exceptions instantly pause the clock. With so much of the process automated, this proposal essentially gives USAC 60 days for Quality Assurance.</p>
235	I agree with the Independent Telephone & Telecommunications Alliance that USAC should provide more information about the application review process. The application review process would be expedited if the Form 471 required all the information that PIA

	needs in order to process an application. For instance, no FRN for Internet access will be approved without information on the number of connections, the speed of connections, and the transport method. However, the Form 471 does not request this information. Even the online Item 21 Attachment does not collect all this information. The Form 471 should be revised so that it collects all the information typically required by PIA. This will result in a ballooning of the size of the Form 471, but the expansion of the form would not represent an increase in complexity of the application process. It would simply be bringing all the complexity out into the open.
236	SECA's suggestion on "black holes" is good, but doesn't go far enough. If applicants are allowed to see the same information as application reviewers, there will be no need for special notifications. Any information required from applicants will be displayed on the applicant's dashboard, and an email will be automatically sent to the applicant when the need for that information is first identified in the system.
237	Once the PIA process is transparent to users, they will know when information is needed, and will respond as they are able. A delay in funding commitment affects applicants more than anyone, so there is no need to punish them further. As it is, an applicant may wait six months to be contacted by PIA, and then have only 15 days to respond. Rather than seeking to punish applicants, the Commission should focus on reducing the number of PIA requests by having the Form 471 collect all necessary information, and shortening the amount of time applicants wait for PIA contact by passing on "exceptions" within minutes of the filing of the application. The system could send out occasional reminders. Perhaps a deadline of 60 days would be useful in getting commitments for all FRNs by June 30 th . Since the system would send the requests for information out within minutes of the Form 471 being filed, a 60-day deadline would mean applications would be ready for Quality Assurance by mid-May. The Commission should give USAC the ability to extend that deadline for up to two additional 60-day periods without Commission intervention.
238	<p>I agree with the West Virginia Department of Education that cost-allocation requirements be lifted in most cases. The current treatment of pre-schools and adult schools is nonsensical. If a district has a building to park buses, that building is eligible for E-Rate funding. However, if that building is converted to be used by 4-year-old children instead of buses, it becomes ineligible. All locations owned or leased by an eligible entity should be eligible for funding.</p> <p>The current rules surrounding non-instructional facilities are also unnecessary. If a district installs a phone system in a school, it is eligible; since students are almost never allowed to use the phone, the system is used almost exclusively by teachers and administrators. Meanwhile, the same phone system installed in a district office, which is also used almost exclusively by teachers and administrators, is not eligible. If an administrator is sitting at her desk using her desk phone, that is not an eligible use, but if she takes the same call on her cell phone, that is an eligible use. Likewise, her desktop computer's wired connection to the Internet is not eligible, but her smartphone's wireless connection from her desk is eligible. The cost of equipment going into administrative locations is typically a small part of a district's total expenses, and is necessary to the education of children.</p> <p>All of a school district's activities and locations should be presumed to have an educational purpose.</p>

239 - 241	<p>The creation of multi-year funding requests is an unnecessary complication. It is true that repeated creation and review of FRNs for the same contract creates unnecessary work, but creating a separate set of rules to deal with that situation does not simplify the program, it increases the quantity of rules.</p> <p>Instead, USAC should design the online Form 471 so that when applicants reach Block 5, they are presented with a list of the previous year's FRNs, and can import them each with a single click, removing the unnecessary work. USAC's system should be able to tell, based on the contract end date, that the FRN is a continuation, and could flag it as such, so that PIA would not need to review that FRN.</p>
242	<p>A multi-year commitment would be reassuring to applicants. However, implementation would be difficult. One option would be to commit the full cost of all the years of the contract from the current funding year. However, that would place an extreme demand on the fund for the first couple of years after the change is made, and would force USAC to keep funding years open much longer. Another option would be to fund only the cost of the first year from the current funding year, then fund the next year of the contract from the next funding year. However, that would mean creating a SuperPriority to ensure that funding is available for existing contracts, which would create a perverse incentive to put all lower-priority requests in multi-year contracts, with the idea that if the contract ever were funded, it would get a SuperPriority in future years. This would snowball until only SuperPriority FRNs would be funded, forcing applicants to sign contracts for as long as possible, and eventually forcing the Commission to create priorities within the SuperPriority.</p> <p>A multi-year commitment that is contingent on funding availability is a multi-year not-quite-commitment, and is of no value to applicants.</p>
243	<p>I agree with the West Virginia Department of Education that the Commission should not prohibit contracts longer than 3 years. There is no reason to place a 3-year limit on multi-year contracts. That limit is arbitrary, with absolutely no evidence that a limit of 3 years is better for the program than a 2-year limit or a 5-year limit. The Commission should leave it to applicants to determine the contract term that best suits their needs.</p>
244 - 245	<p>There is no need to complicate the program by creating a special set of rules for fiber installations. Since public entities often cannot enter into contracts longer than 5 years, fiber IRUs are often for a five-year term with several five-year extensions. As allowed under current rules, applicants should be allowed to request funding for that contract without rebidding for the first five years. After five years, the build will be paid for, and the service should be much less expensive than any other option.</p>
247	<p>The two-window system as proposed would make it impossible to fund Priority Two funding requests before the start of the funding year. In addition, even after the Priority One window closed, applicants would not know how much funding (if any) is available, since the Commission routinely changes the size of the fund with rollovers after applications have been filed, and has even used rollover funds to increase the amount of funding available after the funding year ended.</p>
250	<p>There is no reason for applicants to identify on the Form 470 the category or priority of service that applicants are seeking. The form need only have a list of items sought. The</p>

	purpose of the Form 470 is to generate bids, and the programs categories and priorities are irrelevant to the bidding process.
251	<p>The Eligible Service List should have a “CIPA required” column. For each service listed, that column would make clear whether CIPA compliance is required for a particular service. That column should contain either “Yes” or “No.” If a service sometimes requires CIPA, two entries should be created in the ESL, one describing the conditions under which the service requires CIPA compliance, and the second describing when CIPA compliance is not required.</p> <p>When applicants select that service from the drop-down on the Form 470 (see paragraph 229), they would be informed if CIPA compliance is required. When the system carries the items from the Form 470 forward to the Form 471, CIPA compliance information would automatically appear in Block 5, and in Block 6, the system would determine if CIPA compliance is require, and ensure that applicants check the appropriate box.</p> <p>An applicant creating a Form 486 should be selecting FRNs from a list of approved FRNs. That list will show CIPA compliance requirements, and the form will ensure that the proper CIPA certification is checked. However, since the need for CIPA compliance will be determined on the Form 470, CIPA certification could be moved to the 470 or 471. Since the service start date is on the Form 471, the Form 486 would be superfluous.</p>
252 - 253	<p>The Commission should set the <i>de minimis</i> threshold for funding recoveries at \$1,000. The amount of USAC staff time required for a recovery is well over \$1,000, so this threshold would save the program money.</p> <p>The amount recovered should be commensurate with the harm to the program. Waste, fraud and abuse do great harm to the program, and should always result in recovery. Applicant mistakes, on the other hand, do no lasting harm the program, and so should rarely result in recovery, unless the error is the result of willful negligence. Instead, applicant errors should cause a change in USAC procedures to prevent future errors.</p> <p>For example, if an applicant is guilty of waste, fraud and abuse in the competitive bidding process, the entire amount should be recovered. If, however, an applicant made its decision on cost-effectiveness without making price the primary factor, the recovery should be limited to the price difference between the lowest-cost vendor and the vendor selected.</p>
256	<p>The simplest solution to the problem of unused funds is to change the name. The funds are not “unused,” since they are carried over into other funding years. There are no “unused” funds in the E-Rate program. The need to disburse all funds before the end of the fiscal year is deeply ingrained in government employees, but in the case of the E-Rate, there is no compelling reason for this habit. The Commission should choose a more palatable term for these funds like “carryover funds” or “outcome funds” or “residual funds.” The fact that not all available funds are expended each funding year is not a real problem in this program. The name is the problem.</p> <p>The principle cause of unused funds is the inability to increase commitments. Under the current system, it is applicants’ interests to inflate funding requests as much as possible. The first step in remedying this problem is a change in Commission and USAC thinking. Currently, the Commission considers unused funds a problem, but underfunded FRNs are</p>

	<p>not considered a problem. Applicants should receive funding equal to their discount percentage of expenditures. When an applicant hits the funding commitment cap, they are deprived of funding they deserve. When an applicant receives less funding due to the commitment cap, it should be considered an improper payment. If underpayments triggered IPIA consequences, the Commission and USAC would develop a mechanism for increasing FRNs as necessary. If applicants knew they could increase the amount of an FRN if needed, they would no longer have an incentive to inflate requests.</p> <p>A secondary cause of unused funds is the uncertainty of funding approval. For example, an applicant that would like to replace their current WAN with dark fiber cannot be sure that their request will be approved, since the dark fiber rules are more complex than most applicants can understand, and they can be almost certain that the request will not be approved before the start of the funding year. Given this uncertainty, the prudent course is for them to request funding on both the existing WAN and the fiber WAN for the entire funding year. If application review were changed so that the vast majority of applications are approved before the start of the funding year, the amount of unused funds would decrease. In addition, the Commission could revise its SPIN change rules to allow applicants to more easily change service providers, so the applicant above could create a single FRN, and switch service providers when the new network has been approved and installed.</p> <p>As a general rule, if an applicant receives funding commitments that are 25% higher than eventual disbursements with a particular service provider for two consecutive years, FRNs with that service provider should be flagged, and PIA should request documentation justifying the amount requested.</p>
257 - 258	<p>Rather than trying to force applicants to return unused funds by punishing them, the Commission should focus on making the process easier.</p> <p>The applicant dashboard in the new USAC system should highlight FRNs that appear to be under-utilized, and applicants should periodically receive e-mail notification that an FRN appears underused. The emails and the portal should include an “Adjust” button which would open a pre-populated Form 500 to allow the applicant to adjust the FRN.</p> <p>150 days after the last date to receive service (November 27 for Priority One, February 27 for Priority Two), applicants should receive a list of FRNs from the previous year which have funds remaining. For each FRN, the applicant would have to choose a “Close” button or a “Keep Open” button. The “Close” button would generate a completed Form 500 that would reduce the FRN to the amount already disbursed; the applicant would certify and submit. The “Keep Open” button would generate a form requiring the applicant to explain why the FRN needs to stay open. If applicants don’t choose either option, they should receive a warning after 20 days, another after 40 days, and the FRN should automatically close 60 days after initial notification.</p> <p>The Commission should not seek to minimize the time between when funds are collected and when they are disbursed. That length of time does not affect success in achieving the program’s mission.</p>
259 –	<p>I agree with the Independent Telephone & Telecommunications Alliance that USAC should send BEAR reimbursements directly to applicants for several reasons:</p>

261	<ol style="list-style-type: none"> 1) Speed: Sending payments to service providers delays receipt of funding. This delay should be no more than 20 days, but is often somewhat longer. 2) Payment overhead: Under the current system, both USAC and service providers have to process payments. This creates unnecessary administrative cost, and service providers are increasingly passing this cost on to applicants in the form of “USF Administrative Fees.” 3) Form overhead: Under the current system, applicants must complete, and USAC must process, a separate BEAR for each service provider. With direct payments, all FRNs could be on a single BEAR, and for most applicants, USAC would make a single payment per funding year. Even more important, the BEAR would no longer require service provider certification. 4) Abuse: In rare cases, service providers do not promptly disburse funds to applicants. The most egregious case in my personal experience was a service provider who said, 200 days after receiving disbursement from USAC, “OK, I’ll give you half this month and the rest in three months.” Three months later, I had to make more threats to get the final disbursement. In another case, a service provider which was no longer working with the district sought to take an administrative fee out of the reimbursement before turning it over to the applicant. In such cases, applicants are in a delicate situation; if we turn the service provider over to USAC, then we won’t receive payment until USAC is able to complete the recovery of funds from the service provider, and then a Good Samaritan process is set up for that FRN. That process will take many months and could take years. If the service provider is displeased by the recovery process, they could decline to participate in the E-Rate for future years, so if the applicant is in a multi-year contract, funding for subsequent years will be lost. 5) Clarity: After the BEAR process is complete, a check is sent from the service provider to the district. The person who processes incoming checks often has no involvement in the E-Rate process. If that person decides to follow up with the service provider, in most cases the account manager will also be unaware of E-Rate. In the worst case, the mystified accounts receivable clerk will return the reimbursement check. And how should this check be treated in the applicant’s accounting system? It is not really a payment from the service provider, but the service provider’s name is on the check. This confusion could be avoided if USAC reimbursement checks came from USAC.
264 – 265	<p>In balancing the need to streamline administration versus granting applicants flexibility, the Commission should give more weight to flexibility. Since the purpose of the program is to fund applicants, when an applicant does not receive the funding it is due, it is a failure of the program. The Commission and USAC cannot prevent all failures, but should avoid failure when possible.</p> <p>The Commission should maintain the current 120 day deadline, to encourage applicants to submit BEARs in a timely manner, but should give USAC the ability to extend the deadline for two separate 60-day periods if good cause is shown. “Good cause” should be very loosely interpreted.</p> <p>Applicants should receive frequent reminders of invoicing deadlines. 30 days after the last date to receive service on an FRN for which no SPI has been submitted and funds remain, the applicant dashboard should display that FRN in yellow. 60 days after the last date to receive service, the FRN should turn orange, and the applicant should receive a warning</p>

	<p>email. 90 days after the last date to receive service, the FRN should turn red, and the applicant should receive another warning email. 115 days after the last date to receive service, the applicant should receive a final warning to either submit a BEAR or request an extension.</p> <p>A proposal for de-obligating funds is given under paragraph 257.</p>
266 - 269	<p>The first step in addressing the problem of languishing appeals is to clarify the scope of the problem. To that end, the Commission should release a quarterly report of appeal activity. The report would list all appeals filed, with: 1) a link to the appeal, 2) the date the appeal was filed, 3) the person responsible for the appeal, and 4) the current status of the appeal. The status should provide information useful to applicants and to the Commission, such as: 1) received, 2) assigned, 3) awaiting information from applicant, 4) awaiting information from USAC, 5) drafting, 6) awaiting Bureau approval, and 7) awaiting Commission approval. The status should be a link to a page showing the progress of the appeal, with the date on which an appeal moved from one status to another.</p> <p>With the status information, the Commission would be able to identify where the bottlenecks in the process, and take action to improve those steps in the process.</p> <p>It is apparent that the incentives to promptly decide appeals are not strong enough. In order to encourage prompt decisions, the Commission should require the person responsible for any appeal not resolved in 90 days to send a letter to the appellant, explaining the current status of the appeal, what steps have been taken in the past 90 days, what steps remain to be taken before a decision can be made, and estimating when the appeal will be decided. These updates will keep applicants from feeling that their appeal has fallen into a black hole, and provide an incentive to Commission staff to resolve appeals within 90 days.</p> <p>If that incentive does not provide sufficient incentive, the Commission should consider the same incentive that applicants are given to meet deadlines: loss of funding. The Commission could impose a 180-day deadline, and for every day after 180 days, the Commission would pay the applicant from its own budget 1% of the amount appealed. After 280 days, the Commission would have paid the applicant the full amount appealed, and the appeal could be dismissed as moot.</p> <p>The real key to reducing the number of appeals is reducing the size of the rules, and clarifying the rules. As a first step, all the rules of the program should be printed in one book, which should also be available online. The rule book should be updated quarterly to reflect rule changes made in appeal decisions. Each year, the Commission should invite program participants to identify rules that are not clear and suggest ways to clarify them.</p> <p>I agree with the West Virginia Department of Education that the Commission should create a “Bible” of all program rules. Creation of a single rulebook would also provide an incentive to simplify the rules, as the size of the rulebook would be obviously out of proportion to the size of the typical funding request. For example, if there were a single rulebook, the desire to create a separate set of rules for multi-year contracts or bulk purchasing would be blunted by the physical fact of the rulebook growing.</p>
273 –	<p>I agree with the State E-Rate Coordinators Alliance’s comments concerning the Children’s Internet Protection Act. CIPA requires that applicants provide filtering for “any of its</p>

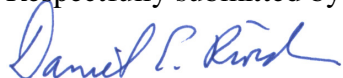
274	computers” (emphasis added). Applicants should not be responsible for filtering devices which not owned by the applicant. Any device which has a processor should be considered a computer for purposes of CIPA compliance. Since CIPA applies only to visual depictions, computers which are not capable of displaying pictures received from the Internet should be considered to have a hardware filter.
275	Internet access for applicant-owned devices which are not in eligible locations is not eligible for E-Rate funding, and not subject to CIPA requirements. If the Commission expands the program to include services delivered to ineligible locations, CIPA requirements should include applicant-owned devices regardless of location.
276 – 281	Under current rules, rural schools receive a 0% - 10% increase in discount level. This differentiation adds complexity to the program with no measurable benefit. The neediest schools receive no increase in discount, and the maximum increase of 10% is unlikely to provide enough incentive to alter the behavior of an applicant considering expanding the use of broadband. As part of its efforts to increase simplicity, the Commission should remove the separate discount matrix for rural schools.
282 - 286	The revised discount matrix presented at paragraph 117 above puts all applicants eligible for the Community Eligibility Option into the highest discount bracket.
287	When USAC completes Block 4 for applicants, it should use NSLP data for schools, but U.S. Census data for libraries.
288	Applicants should continue to have the option of conducting a survey, but it should not be a requirement for any applicant.
295 - 297	As part of the applicant portal, the Commission should create a facility for applicants to scan and upload all required documentation. The program rules would be simplified by removing document retention requirements. In addition, almost all information needed for an audit would already be in USAC’s system. Currently, applicants are often unaware that they are required to create certain documents to comply with E-Rate rules, so requiring submission of those documents would clarify the rules. If a document is required in order to receive E-Rate funding, USAC should collect that document.
298	If the Commission insists on regulating the purchasing decisions of local governments, a well-designed procurement portal, as described in paragraph 229 above, will collect all the documentation required.
303	When BEAR reimbursements are made directly to applicants, no service provider certifications should be required on Form 472.
306 - 307	The proposals concerning certifier qualifications are a bad solution in search of a problem. There are no cases where waste, fraud or abuse occurred when an individual truthfully certified, but was not the equivalent of a corporate officer. While it is certainly desirable that those certifying compliance with E-Rate rules know those rules, there are two problems with requiring such a certification. First, in most districts, those employees with authority equivalent to a corporate officer do not have “substantial knowledge of E-Rate program requirements.” Second, there is no way for a person to demonstrate their E-Rate knowledge, so the certification is meaningless, unless the Commission wishes to require

	co-certification by an E-Rate Management Professionals Association (E-mpa™) Certified E-Rate Management Professional (CEMP). CEMPs are the only people who can document a substantial knowledge of program rules.
308	<p>I agree with the Independent Telephone & Telecommunications Alliance that the Commission should reduce the number of certifications on all forms. The sheer number of certifications is harmful to the program. The long list of certifications discourages applicants from participating, and causes others to hire consultants to insulate employees from the personal risk of certifying. The new certification concerning perjury will cause more applicants to leave program or hire a consultant.</p> <p>It seems that many of the certifications are present not to prevent waste, fraud or abuse, but to remind applicants of certain program rules. In that case, it would be less threatening to include a “Reminders” page. Only certifications which are effective in reducing waste, fraud and abuse should be kept in the Certifications section.</p> <p>Any certifications not currently in the rules should be removed. Each certification should cite the rule upon which is based.</p> <p>Redundant certifications should be removed. For example:</p> <ol style="list-style-type: none"> 1) Form 472 Item E covers all the certifications: “I certify that... this Billed Entity Applicant is in compliance with the rules and orders governing the schools and libraries universal service support program....” 2) All the certifications on the Form 471 are covered by the first clause in the first sentence of Item 30: “I certify that I and the entity(ies) I represent have complied with all program rules....” 3) Form 470 Item 23 and Form 471 Item 28 require compliance with FCC bidding rules, and several other items on both forms require redundant certification to a subset of those rules. 4) Form 471 Item 29 certifies “entity or entities listed on this application have not received anything of value or a promise of anything of value...from the service provider,” Form 471 Item 33 mentions “no kickbacks,” Form 471 Item 37 mentions no “rebates or discounts.” Perhaps these could be united. 5) Form 486 Item 10 and Form 471 Item 31 both say, “the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.” 6) Form 470 Item 19, Form 471 Item 32, Form 486 Item 10 and Form 472 Item D all cover audits and document retention. 7) Form 486 Item 9 and Form 471 Item 30 both certify “signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements.” 8) Form 470 Item 17 and Form 471 Item 26 are identical. 9) Form 470 Item 18 and Form 471 Item 27 are duplicative. 10) Form 470 Item 20 and Form 471 Item 29 are identical. 11) Form 470 Item 21 and Form 471 Item 25 are duplicative. 12) Form 470 Item 23 and Form 471 Item 28 both certify to compliance with FCC, state and local competitive bidding rules.

	<p>The Commission should remove any certifications with which applicants cannot possibly comply, or change the language so that compliance is possible. For example:</p> <ol style="list-style-type: none"> 1) Item 25 of the current Form 471 requires applicants to certify that they have secured resources necessary to cover the non-discount portion of costs as well as the cost of electricity, teacher training, etc. In fact, there are no public schools or libraries which have, on March 15th, a budget to pay for services to be delivered more than a year later. Most schools are on a July-June calendar, and in March do not have an approved budget for any portion of the funding year. Under current practice, applicants are allowed to fudge this certification by showing that a draft budget includes sufficient resources. 2) Similarly, Item 30 requires that contracts have been signed for services. It would be illegal for applicants to sign contracts for services that start in a fiscal year for which they have no budget. The fig leaf that is frequently put over this FCC requirement that local governments violate the law is to add contingencies to the contract. However, these contingencies do not make the contract legal unless they make in non-binding, in which case the contract does not satisfy FCC's rules. 3) Item 28 requires that applicants read all bidding rules. In the Caldwell Parish decision held that a statement included in a USAC PowerPoint slide from 2001 contained a program competitive bidding rule. It is unlikely that most applicants have read the slides from that presentation, so they cannot truthfully certify that they have read all rules. <p>Certifications that USAC will independently verify should be removed. There is no need to require certification in cases where USAC requires proof. For example:</p> <ol style="list-style-type: none"> 1) Form 471 Item 24 certifies the eligibility of entities. USAC independently verifies the status of entities, and if it cannot, requires proof of eligibility for each location. 2) Form 471 Item 36 certifies compliance with the Two-in-Five Rule. USAC ensures compliance with the Two-in-Five rule for each Internal Connections FRN. <p>Note that the Item numbers above are based on the currently approved forms, not the drafts.</p>
315	<p>Any audits required to ensure compliance should be conducted and paid for by USAC. Audits which are paid for by the audited entity do not inspire confidence. Requiring service providers to pay for audits unfairly pushes the cost of administering the program onto service providers. Service providers will in turn push this cost onto applicants in the form of "USF Administrative Fees." Administrative costs of operating the program should be paid by USAC, not program participants.</p>
319	<p>The E-Rate fund is insufficient to meet demand based on current services. The Commission should not expand the scope of eligible services until all current services are funded.</p>
320 - 323	<p>I agree with the Independent Telephone & Telecommunications Alliance that providing wireless broadband to entire communities is well beyond the E-Rate's mission, and would not be possible unless the fund were drastically increased. Further, a school district or library providing community Internet access is a poor model. Data networking is outside a school's core mission, so schools should not be hiring the staff necessary to support a community network. Oakland and Revere are considering community wireless only</p>

	because E-Rate subsidies reduce their net cost to a level below what the free market can reach.
325	<p>I disagree with the State E-Rate Coordinators Alliance that the Commission should create emergency procedures. The E-Rate program is not a disaster relief fund, and should not expand its mission to include emergency relief. Creating a separate set of rules for disasters is an unnecessary complication of the program. Most disasters do not create enough devastation to cause a significant change in the telecommunications expenses of schools and libraries in the affected area.</p> <p>The extra rules would be almost useless, since it appears that the Commission intends these rules to replace infrastructure equipment, and it is clear that the E-Rate program will not have sufficient funding to support Priority Two expenditures in the future.</p> <p>In the past five years, we have had an average of 69 Major Disaster Declarations and 13 Emergency Declarations per year (http://www.fema.gov/disasters/grid/year). Requiring USAC to react to 80 disasters a year will require a significant increase in USAC staff.</p>
326	Rather than having the Bureau investigate each disaster to determine whether an extension of filing deadlines is warranted, and if so, for which entities, applicants affected by a disaster can file a Request for Waiver. The Bureau has demonstrated its ability to grant even routine waiver requests within 30 days.
327	<p>Opening a separate filing window for each disaster would mean that on an average day, USAC would be managing 13 separate but overlapping emergency filing windows. In addition, on average 16 disaster windows would overlap with or be contained in the normal annual filing window, creating a great deal of confusion about the need to file a Form 470.</p> <p>Disaster declarations typically come 20-60 days after the disaster, so a 60-day window would close 80-120 days after the disaster strikes. That is a very tight deadline for an applicant trying to recover from a disasters to assess damage, determine needs, create a specification, find a service provider capable of delivering service in the disaster, and sign a contract.</p>
328	It would frequently be bad policy to limit disaster expenditures to restore of existing functionality. A disaster which destroyed a significant amount of telecommunications infrastructure in an area might well make it more cost-effective for a district to upgrade from its 10 Mbps metro Ethernet service to a dark fiber network. In the case of internal connections, it hardly makes sense to require a district to replace outdate Category 5 wiring and 100 Mbps switches instead of upgrading to a wireless or gigabit wired network.

Respectfully submitted by:



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